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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	No. CR 10-0275 WHA
	)	
Plaintiff,	)	STIPULATION AND <del>PROPOSED</del> ORDER
	)	EXCLUDING TIME UNDER 18 U.S.C. § 3161
v.	)	
	)	
LECONTE O'NEAL,	)	
	)	
Defendant.	)	

The defendant made his initial appearance on this matter on April 15, 2010. On May 4, 2010, the parties appeared before the Court and set a briefing schedule for a motion to suppress, and the Court ordered time between May 4, and May 30, 2010, be excluded for effective preparation of counsel, 18 U.S.C. § 3161(h)(7)(B)(iv). The defendant filed his motion on May 30, 2010, automatically stopping the speedy trial clock, 18 U.S.C. § 3161(h)(1)(D).

The parties appeared to argue the motion to the Court on June 23, 2010. The Court

1 ordered an evidentiary hearing on the matter, on August 9, 2010, further tolling the speedy trial  
2 clock until August 9, 2010, 18 U.S.C. § 3161(h)(1)(D).

3 On August 5, 2010, the parties requested and the Court ordered the hearing be continued,  
4 and the speedy trial act be tolled, until September 1, 2010. On September 1, 2010, the Court  
5 conducted a hearing, and ordered further briefing, tolling the speedy trial clock again, 18 U.S.C.  
6 § 3161(h)(1)(D).

7 On September 28, 2010, the parties submitted their final briefs and took the defendant's  
8 motion to suppress under submission, tolling the speedy trial clock for a period not to exceed  
9 thirty days, 18 U.S.C. § 3161(h)(1)(H). On October 13, 2010, the Court issued its order denying  
10 the defendant's motion to suppress.

11 On October 26, 2010, the parties appeared before the Court and requested time to  
12 negotiate a resolution of the case. The parties requested, and the Court ordered that the time  
13 between October 26, and November 2, 2010, be excluded under the speedy trial act, 18 U.S.C. §  
14 3161(h)(7)(B)(iv), for effective preparation of counsel. On November 2, 2010, the parties  
15 appeared and requested the matter be set for November 15, 2010, for a stipulated facts bench  
16 trial. The parties requested, and the Court ordered that the time between November 2, and  
17 November 15, 2010, be excluded under the speedy trial act, 18 U.S.C. § 3161(h)(7)(B)(iv), for  
18 effective preparation of counsel.

19 On November 15, 2010, the parties appeared for a stipulated facts bench trial. The trial  
20 could not go forward as planned due to questions that arose concerning the nature of the  
21 proceeding. The Court ordered the matter be put over until November 19, 2010, at 11:00 am for  
22 trial. The parties requested, and the Court ordered that the time between November 15, and  
23 November 19, 2010, be excluded under the speedy trial act, 18 U.S.C. § 3161(h)(7)(B)(iv), for  
24 effective preparation and continuity of counsel.

25 The Court inquired as to the speedy trial date in this matter. As of the date of this filing,  
26 all dates have been excluded with the exception of the following: April 15 to May 4, 2010; and  
27 October 13 to October 26, 2010. This means thirty-two days have run from the speedy trial  
28 clock, and thirty-eight days remain. Beginning November 19, this would set the speedy trial

1 clock date at December 27, 2010.

2 SO STIPULATED:

3  
4 MELINDA HAAG  
United States Attorney

5  
6 DATED: November 17, 2010

/s/  
7 BENJAMIN P. TOLKOFF  
Assistant United States Attorney

8  
9 DATED: November 17, 2010

/s/  
10 GEOFFREY HANSEN  
Attorney for LECONTE O'NEAL

11 For the reasons stated above, the Court finds that the exclusion of time from May 4  
12 through October 13, and October 26 through November 19, 2010, is warranted and that the ends  
13 of justice served by the continuance outweigh the best interests of the public and the defendant in  
14 a speedy trial. 18 U.S.C. §3161 (h)(7)(A). Specifically, on May 4, 2010, the Court ordered that  
15 the time between May 4, and May 30, 2010, be excluded for effective preparation of counsel 18  
16 U.S.C. § 3161(h)(7)(B)(iv).

17 The time between May 30, and September 28, 2010, is automatically excluded as delay  
18 attributable to the filing, hearing on, and disposition of a pretrial motion, 18 U.S.C. §  
19 3161(h)(1)(D).

20 The time between September 28, and October 13, 2010, is excluded as the defendant's  
21 motion to suppress was under submission, 18 U.S.C. § 3161(h)(1)(H).

22 The time between October 26, and November 19, 2010, is excluded as necessary for effective  
23 preparation and continuity of counsel. The failure to grant the requested continuance would deny  
24 the defendant effective preparation of counsel, and would result in a miscarriage of justice. 18  
25 U.S.C. §§ 3161(h)(7)(B)(iv).

26  
27 SO ORDERED.  
28



HONORABLE WILLIAM H. ALSUP  
United States District Judge

DATED: November 30, 2010.